

Attorney's Docket No.: 07880-121001 / UMA00-16A

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 16 2005

Applicant : Haim B. Gunner et al.

Art Unit : 1651

Serial No. : 10/608,582

Examiner : Deborah K. Ware

Filed : June 23, 2003

Title : NOVEL ANTIFUNGAL BACTERIUM AND COMPOSITIONS

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

DECLARATION CONCERNING DEPOSIT OF BIOLOGICAL MATERIAL

I, Elizabeth N. Kaytor, declare as follows:

1. I am presently employed as a Technology Specialist by Fish & Richardson, P.C., P.A., which has power of attorney for the above-referenced patent application.
2. A deposit of strain APM-1, indicated on page 3 of the above-referenced patent application as well as in claim 1, has been made under the Budapest Treaty to The American Type Culture Collection, P.O. Box 1549, Manassas, VA 20108, affording permanence of the deposit and ready accessibility thereto by the public if a patent is granted. The deposited material has been accorded Accession No. PTA-4838, as indicated on page 3 of the above-identified application as well as in claim 1. The date of deposit was December 2, 2002.
3. All restrictions, if any, on the availability to the public of the material so deposited will be irrevocably removed upon the granting of a patent.

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

May 16, 2005

Date of Transmission

Signature

Brenda L. Taylor

Typed or Printed Name of Person Signing Certificate

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4. The material has been deposited under conditions that assure that access to the material will be available during the pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

5. The deposited material will be maintained with all the care necessary to keep them viable and uncontaminated for a period of at least five (5) years after the most recent request for the furnishing of a sample of the deposited organism, and in any case, for a period of at least thirty (30) years after the date of deposit or for the enforceable life of the patent, whichever period is longer.

6. The duty to replace the deposit should the depository be unable to furnish a sample when requested due to the condition of the deposit is acknowledged.

7. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the instant patent application or any patent issuing thereon.

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Date: May 16, 2005

Elizabeth N. Kaytor
Elizabeth N. Kaytor, Ph.D.
Reg. No. 53,103

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

Before me this 16th day of May, 2005, personally appeared Elizabeth N. Kaytor, Ph.D., known to me to be the person whose name is subscribed to the foregoing Declaration, and acknowledged that she executed the same as her free act and deed for the purposes therein contained.

Christina L. Walberg
Notary Public

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